

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Washington, D.C.

In the Matter of:

MODOU S. CAMARA

Respondent.

*
*
*
*
*
*
*

DOCKET NO. 07-3381-DB

DEBARRING OFFICIAL'S DETERMINATION

By Notice dated August 30, 2006 ("Notice"), the Department of Housing and Urban Development ("HUD") notified the Respondent, MODOU S. CAMARA, that HUD was proposing the Respondent's debarment from future participation in procurement and nonprocurement transactions as a participant or principal with HUD and throughout the Executive Branch of the Federal Government for an indefinite period. In the August 30, 2006, Notice, HUD acknowledged Respondent's letter of July 24, 2006, in which Respondent objected to a then-proposed debarment because Respondent had not received the Notice of Proposed Debarment and Continuation of Existing Suspension dated September 16, 2005. In response to Respondent's objection, HUD rescinded the September 16, 2005, Notice and the Notice of Final Determination dated March 15, 2006. HUD also advised Respondent that the suspension HUD imposed on November 7, 2002, was terminated.

Specifically, in the August 30, 2006, Notice, HUD advised Respondent that the debarment would be for an indefinite period from the date of the final determination of this proposed action. Additionally, the Notice informed Respondent that the basis for his proposed debarment was Respondent's conviction in the United States District Court for the District of Columbia for violating 18 U.S.C. 2, 371, 1343, 1956(a)(1) and 2314. As a consequence of his conviction, Respondent was sentenced to 60 months' incarceration and three years' supervised release.

A hearing on Respondent's proposed debarment was held in Washington, DC on December 19, 2006, before the then-Debarring Official's Designee, Mier Wolf.¹ Respondent

¹ Meir Wolf retired from HUD shortly after hearing this matter. Mr. Wolf left the complete written record of all the filings and submissions in this matter. Additionally, a tape recording of the December 19, 2006, hearing is part of the record. The Debarring Official's Designee, Mortimer F. Coward, who assumed Mr. Mier's duties after his retirement, therefore, had the benefit of reviewing the complete record in this matter, including the tape recording of

was represented at the hearing by his attorney, Elise Haldane, Esq., who also represented him in the criminal matter. Respondent himself, though unable to be present in person at the hearing, testified and otherwise participated in the hearing by phone. Todd Maiberger, Esq. appeared on behalf of HUD. During the hearing, Respondent's attorney requested additional time to respond to the government's bench brief. The Debarring Official's Designee granted the additional time, holding the record open for the Respondent's supplemental submission, which is part of the record considered in this matter

I have decided, pursuant to 24 C.F.R. part 24, to debar Respondent from future participation in procurement and non-procurement transactions, as a participant, principal, or contractor with HUD and throughout the Executive Branch of the Federal Government for a period of ten years from the date of this Determination. My decision is based on the administrative record in this matter, which includes the following information:

- (1) The Notice of Proposed Debarment issued by HUD to Respondent dated August 30, 2006.
- (2) Respondent's letter of September 28, 2006, addressed to the former director of the Departmental Enforcement Center, Margarita Maisonet, who also served as the Debarring Official.
- (3) HUD's Brief in Support of an Indefinite Debarment filed November 28, 2006 (including all attachments and exhibits thereto).
- (4) Respondent's Brief in Opposition to Indefinite Debarment, filed December 12, 2006 (including all attachments and exhibits thereto).
- (5) HUD's Bench Brief Addressing Respondent's Mitigation Arguments.
- (6) Respondent's Reply to Government's Bench Brief filed January 17, 2007.
- (7) The tape recording of the December 19, 2006, telephonic hearing.

As noted above, HUD proposed Respondent's indefinite debarment based upon Respondent's conviction on nine counts involving various criminal offenses following a jury trial in the U.S. District Court for the District of Columbia. Respondent was found guilty of one count of Conspiracy to Commit Crimes Against the United States, one count of Interstate Transportation of Money and Securities Obtained by Fraud, Aiding and Abetting, five counts of Wire Fraud, Aiding and Abetting, and two counts of Money Laundering, Aiding and Abetting. The Indictment charged, among other things, that Respondent, over a period of five years, conspired with others to purchase properties, which Respondent would sell to family members and others well knowing that the buyers did not qualify for a mortgage loan because of their limited means and other financial disabilities. Respondent used fraudulent means to qualify these ineligible buyers for the properties that he had bought. He then sold the properties which were financed with FHA-insured mortgages. Respondent realized a profit on the sale of these properties on which he had obtained inflated appraisals from his coconspirators. As a result of Respondent's actions, HUD/FHA suffered financial losses in excess of \$1 million.

the December 19, 2006, proceedings, in making his recommendation to the Debarring Official with respect to Respondent's debarment.

HUD proposed Respondent's indefinite debarment based on his criminal conviction. HUD contends that Respondent's criminal conduct indicated a lack of business integrity or business honesty that seriously affects Respondent's present responsibility. In HUD's view, when HUD conducts business with individuals lacking in integrity and business honesty, HUD cannot be assured that HUD's funds are being properly spent. Accordingly, an indefinite debarment would serve to protect the public and ensure that Respondent could not engage in further transactions involving HUD, thereby putting HUD's funds at risk.

In Respondent's appeal of HUD's action to debar him, Respondent acknowledges that his criminal conviction is a cause for debarment and takes responsibility for the acts that led to his conviction. Respondent argued, however, that he had insufficient knowledge of his role in the conspiracy, "was inexperienced in the details of the real estate business,"² and depended on others to ensure the legitimacy of the transactions at issue in his trial. Respondent's counsel conceded at the hearing that Respondent's misplaced dependence on others did not excuse his criminal actions. At the hearing and in his brief, Respondent contends that given "the circumstances of this case . . . a three-year debarment would be appropriate."³ In support of his plea, Respondent states that he realizes the "seriousness and criminality of his actions" and the consequences of his "laissez faire attitude toward the actions of his business associates, family and friends."⁴

Respondent offers as mitigating factors for the Debarring Official's consideration in imposing no more than a three-year debarment his acceptance of responsibility, the passage of time since the activities that led to his criminal conviction, and the lessons he has learnt from his experience in the criminal justice system, the fact that this is his first criminal matter, and that a three-year debarment would be consistent with previous decisions with respect to debarment for transgressions similar to those committed by him.

The government argues that acceptance of responsibility for a crime does not indicate present responsibility because it occurred post-conviction. Further, the government asserts that the lapse of time between the commission of and conviction for a crime is not in itself mitigation. The government also rejects Respondent's argument that the fact that he had no prior criminal record is worthy of consideration because, argues the government, Respondent's prior clean record is outweighed by the gravity of his crimes and the financial losses suffered by HUD. Finally, the government sees no merit in Respondent's argument with respect to consistency in the period of debarment imposed in similar cases or that indefinite debarment is not appropriate because Respondent received only a five-year prison sentence. In the government's view, the cases cited by Respondent are distinguishable from the instant matter, and, in any event, "a mild penal sentence, ipso facto, does not demonstrate that a prospective sanction is not warranted." (citation omitted) The government therefore insists that indefinite debarment is appropriate in this case.

² Respondent's Brief in Opposition to Indefinite Debarment at 2.

³ *Id.* at 4.

⁴ *Id.* at 5.

Findings of Fact

1. Respondent was a real estate investor who bought and sold properties that were financed with HUD-insured mortgages.
2. Respondent engaged in an illegal conspiracy with family, associates, and others in the purchase and sale of these properties.
3. As a consequence of Respondent's illegal actions, HUD suffered large financial losses in excess of \$1 million.
4. Respondent was charged and later found guilty by a jury of violating several federal criminal statutes in furtherance of his illegal acts.
5. Respondent was sentenced to five years' imprisonment and three years' supervised release for his criminal conduct.
6. As part of his criminal sentence, Respondent was ordered to pay restitution.
7. Respondent has not made restitution to the government of the losses suffered as a result of his criminal acts.
8. Respondent is currently serving his prison sentence.

Conclusions

Based on the above Findings of Fact, I have made the following conclusions:

1. Respondent was a participant in a covered transaction as defined in 24 CFR part 24.
2. Respondent admits his wrongdoing and accepts responsibility for his criminal conduct.
3. Respondent's involvement in this matter raises grave doubt with respect to his business integrity and personal honesty.
4. HUD has a responsibility to protect federal funds and the public interest.
5. HUD cannot effectively discharge its responsibility to the public if participants in its programs fail to act with honesty and integrity.
6. Respondent has not made restitution ordered by the court as part of his sentence.
7. Respondent had no prior record with HUD involving wrongdoing on his part, nor a criminal record before his conviction for the offenses recited above.
8. Respondent provided a character reference from a correctional official to support a claim of present responsibility.
9. As a general rule, the period of debarment to be imposed on a Respondent is not shaped by the length of a Respondent's prison sentence, nor does the debarment have to be coterminous with the prison sentence.

10. Respondent's conviction provides the basis for debarment under 24 CFR 800(a).

Based on the foregoing, including the Findings of Fact, Conclusions, and the administrative record, I have determined to debar Respondent for ten years commencing on the date of this Determination. In accordance with 24 CFR 24.870(b)(iv), Respondent's "debarment is effective for covered transactions and contracts that are subject to the Federal Acquisition Regulation (48 CFR chapter 1), throughout the executive branch of the Federal Government unless an agency head or an authorized designee grants an exception."

Dated: _____

4/18/07

Henry S. Czauski

Henry S. Czauski
Debarring Official
Departmental Enforcement Center